

BEFORE THE PUBLIC DISCLOSURE COMMISSION  
OF THE STATE OF WASHINGTON

IN THE MATTER OF ENFORCEMENT	)	PDC CASE NO: 02-280
ACTION AGAINST	)	
	)	
Jim Downs, Sr.	)	Notice of Administrative
	)	Charges
	)	
Respondent.	)	
_____	)	

IT IS ALLEGED as follows:

**I.**  
**JURISDICTION**

Jurisdiction of this proceeding is based on Chapter 42.17 RCW, the Public Disclosure Act, Chapter 34.05, Administrative Procedure Act, and Title 390 WAC.

**II.**  
**LAW**

RCW 42.17.130 states in part: "No elective official nor any employee of his office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency and clientele lists of persons served by the office or agency..."

**III.**

### **BACKGROUND**

On September 29, 2000, the Public Disclosure Commission received a complaint from Don Benton, who at the time was Chair of the Washington State Republican Party, alleging that Geoff Simpson used public facilities, including personnel, to produce campaign literature in his 2000 campaign for State Representative in the 47<sup>th</sup> Legislative District. The complaint alleged that City of Kent Fire Department property was used in Mr. Simpson's ads. Mr. Simpson was elected to the position of State Representative on November 7, 2000.

During the course of the investigation, staff determined that the photographs used in the Simpson campaign literature were taken at the City of SeaTac Fire Department and that employees of the City of SeaTac were involved in the use of public facilities to assist the Simpson campaign.

### **IV. FACTS**

These charges incorporate the Report of Investigation and all of its exhibits by reference.

Geoff Simpson was a candidate for State Representative in the 47<sup>th</sup> Legislative District in 2000. His name appeared on the September 19, 2000 primary election ballot and the November 7, 2000 general election ballot. Mr. Simpson was elected to the position of State Representative from the 47<sup>th</sup> Legislative District on November 7, 2000.

During 2000, the Geoff Simpson campaign produced campaign literature. A copy of the pertinent brochure is attached. On July 21, 2000, Mr. Simpson participated in a campaign photo shoot at the City of SeaTac Fire Department. At the time of the photo shoot, Mr. Simpson was an employee of the City of Kent Fire Department. Mr. Simpson participated in arranging for the photo shoot by seeking permission to have a campaign photo shoot at the SeaTac Fire Department, by selecting a date, and by insuring that a photographer would be present. During the actual photo shoot, Mr. Simpson wore a uniform that was issued by the City of Kent Fire Department, and wore clothing and used equipment that was the property of the City of SeaTac Fire Department and not available to the general public. The clothing and equipment included

bunker gear and protective clothing, fire fighting equipment, and a fire truck. In addition, seven City of SeaTac on-duty firefighters and seven fire department uniforms were used. The campaign photo shoot included photographs taken at the City of SeaTac Fire Department and at other locations not involving the use of public facilities.

Keven Rojecki, a City of SeaTac Fire Department employee and firefighter, who was also President of the local firefighter's union (IAFF Local 2919), and Geoff Simpson coordinated the campaign photo shoot. Mr. Rojecki was unable to attend the photo shoot on July 21, 2000 and asked Captain John Gallup, a City of SeaTac firefighter, who is also Vice President of IAFF Local 2919, to assist in coordinating the photo shoot, including arranging for use of on-duty City of SeaTac firefighters. Captain Gallup coordinated the use of City of SeaTac Fire Department equipment and personnel for the photo shoot on July 21, 2000.

Mr. Rojecki stated that he and Geoff Simpson discussed the possibility of arranging a campaign photo shoot at the City of SeaTac Fire Department during a union conference in Wenatchee in April, 2000. Mr. Rojecki stated that shortly after returning from the Wenatchee conference, he and SeaTac Fire Chief Jim Downs discussed the idea of the Simpson photo shoot, and that Chief Downs authorized the photo shoot, on the condition that the City of SeaTac would not be identified in any campaign photographs. Mr. Rojecki stated that Chief Downs reminded him that any campaign photos must not include department logos or identification. Based on his conversation with Chief Downs, Mr. Rojecki asked Mr. Simpson to change the identifying number on a helmet shield used in the campaign photos from "411" to "4N" to avoid identifying the SeaTac Fire Department. According to Mr. Rojecki, Chief Downs asked to see the photos before they were used, but never actually reviewed the photos. Mr. Rojecki said his conversation with Chief Downs was not out of the ordinary because the City of SeaTac Fire Department has a history of using its facilities for campaign photo shoots.

Chief Downs acknowledged that he spoke with Mr. Rojecki in April, 2000 in general terms concerning appropriate and inappropriate use of governmental properties but denies that they

spoke specifically about the Geoff Simpson campaign. Chief Downs stated that he offered to review anything about which Mr. Rojecki had a question to insure that the City of SeaTac was not involved in supporting a political campaign.

Mr. Simpson, Mr. Rojecki, and Mr. Gallup all stated that they believed that Chief Downs authorized the photo shoot, on the condition that the City of SeaTac would not be identified in any campaign photographs. Chief Downs contends that he did not authorize the use of City of SeaTac Fire Department equipment and facilities for the Simpson campaign photo shoot. Chief Downs stated that he talked to Mr. Rojecki about the prohibition against showing fire department logos in campaign photographs, but contends that he did not talk to Mr. Rojecki specifically about the Simpson campaign photo shoot. The photographs did not identify the City of SeaTac or the City of Kent.

John Gallup stated that on July 21, 2000, he met with Chief Downs and mentioned to him that the Simpson photo shoot was taking place that day. Mr. Gallup stated that he understood that it was okay to conduct the photo shoot as long as the name of the SeaTac Fire Department was not used in the photos. Mr. Gallup stated that Chief Downs was scheduled to be out of the office on July 21, 2000 and was not present during the photo shoot.

Calvin Hoggard, City Manager for the City of SeaTac in July, 2000, stated that the City of SeaTac maintains a long-standing policy prohibiting the political use of City facilities and equipment and prohibiting political activity by City employees while on duty or on City premises, in accordance with RCW 42.17.130. Mr. Hoggard stated that the prohibition against political activity is set forth in the Employee Handbook.

Mr. Hoggard issued Chief Downs a letter of reprimand on April 24, 2001. The letter stated in part that *“the training and supervisory information imparted by [Chief Downs] to Fire Department personnel left room for a belief that alleged prior accommodation of political candidates and committees would be continued, provided only that identifying nomenclature, logos, or numbers be concealed.”* City Manager Hoggard reminded Chief Downs of the need to

ensure appropriate training and compliance with the published City of SeaTac Fire Services Policies and Procedures which require *“that all laws, ordinances, rules, regulations, orders, or directions for the governing of the department are promptly and implicit obeyed.”* The letter of reprimand goes on to state, *“The Acting Battalion Chief on July 21, 2000 was under the apprehension that this mandate could be ignored so long as identity of personnel and equipment was concealed in campaign photographs and literature.”* A portion of the letter of reprimand was *“based upon [Chief Downs’] failure to provide proper training and instruction ... and apparent acquiescence in a claimed ‘pervasive belief’ that on-duty assistance in political campaigns would be tolerated by City and Fire Administration if identifying features were concealed.”*

The photographs taken on July 21, 2000 using public facilities and equipment of the City of SeaTac and a uniform of the City of Kent were subsequently used in campaign literature by the Geoff Simpson campaign. The campaign produced 52,895 brochures that were mailed to individuals in the 47<sup>th</sup> Legislative District. The brochures were mailed between August 28 and October 16, 2000.

## **V. CONCLUSION**

Staff alleges, based on the facts specified in Section IV, that Jim Downs, Sr. violated RCW 42.17.130 by authorizing the use of facilities and equipment of the City of SeaTac Fire

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Department for a campaign photo shoot in which Geoff Simpson used City of SeaTac firefighting clothing and equipment, including a fire truck, and on-duty employees of the City of SeaTac.

RESPECTFULLY SUBMITTED this 6<sup>th</sup> day of February, 2002.

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Philip E. Stutzman  
Director of Compliance